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12
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14 TRACY HANKINS

15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE NORTHERN DISTRICT OF CALIFORNIA
17
18 SAN JOSE DIVISION

19 TRACY HANKINS,

20 Plaintiff,

21 vs.

22 CALIX INC. and DOES 1-25,

23 Defendants,

24 Case No.

25 **COMPLAINT FOR DAMAGES**

- 26 1) **Unequal Pay in Violation of the**
27 **California Equal Pay Act and**
28 **Title VII**
- 2) **Gender/Sex Discrimination in**
Violation of Title VII
- 3) **Retaliation in Violation of Title**
VII
- 4) **Retaliation in Violation of Title**
VII and §1981 of the Civil
Rights Act of 1866
- 5) **Race Discrimination in**
Violation of Title VII and §1981
- 6) **Disability Discrimination in**
Violation of the Americans with
Disabilities Act (“ADA”)
- 7) **Failure to Accommodate in**
Violation of the ADA

29 **DEMAND FOR JURY TRIAL**

30 [ADDITIONAL COUNSEL ON FOLLOWING PAGE]

31 COMPLAINT FOR DAMAGES

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1 **INTRODUCTION**

2 1. Plaintiff Tracy Hankins – a currently employed Cloud Solutions Specialist who has
3 worked at the technology behemoth since 2017 – brings this case against Defendant Calix
4 Inc., for illegal discrimination based on her race, gender, age, and disability status, and illegal
5 retaliation pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as
6 amended, §1981 of the Civil Rights Act of 1866, 42 U.S.C., 29 U.S.C. §§ 623(a)(1),
7 Americans with Disabilities Act (ADA), 42 U.S.C. § 12112(a), and the California Fair Pay Act,
8 Labor Code Section 1197.5, having timely filed her claims with the U.S. EEOC on October 4,
9 2018, and having received her right-to-sue Notice on August 17, 2019.

10 2. Over the course of her employment, as alleged and pleaded *infra*, Plaintiff was
11 underpaid, sidelined, maligned, discriminated against, and retaliated against for reporting
12 misconduct that included, among other transgressions:

13 3. Plaintiff was the first Cloud Solutions Specialist hired in her department at Calix Inc.
14 on March 20, 2017, and was the only woman and the only African-American in her role for
15 the duration of her employ. On April 25, 2017. her supervisor, S. Eyre, told guests at an office
16 meeting to “stop acting like pussies,” a statement that deeply offended her. When director of
17 software development Laurie Harvey, the only woman present besides Plaintiff, exclaimed
18 “Hey!” in dismay, Mr. Eyre replied, “Aw, come on.”

19 4. Bob Carrick, a white male, began work October 16, 2017, in the same Cloud Solutions
20 Specialist role as Plaintiff. Around that time, Plaintiff became aware that the company was
21 planning to hire a Senior Cloud Solutions Specialist. Plaintiff, who had seniority over Mr.
22 Carrick and the other male Cloud Solutions Specialist, asked to be considered for the
23 position, but Mr. Eyre told her in an October 18, 2017 conversation that he “couldn’t do it.”
24 The week of November 13, 2017, with less than a month on the job, Mr. Carrick was promoted
25 to the senior position by Mr. Eyre.

26 5. On October 31, 2017, Plaintiff attended a business convention in Las Vegas, Nevada,
27 during which she had a conversation with Richard Link, a professional colleague employed
28 by Calix. Mr. Link invited Plaintiff, who formerly had worked at Windstream, to attend

1 Windstream's business session at that conference and discuss possible business. Plaintiff
2 observed Mr. Carrick eavesdropping on that conversation.

3 6. The next day, Plaintiff attended a dinner meeting at which Tim Pillow, Vice President
4 who services the Century Link account, queried whether Plaintiff planned to wear "a nice
5 dress and heels" to meet the Century Link business contacts in person.

6 7. Subsequently, Plaintiff began working to establish Windstream as a client. In
7 November 2017, Plaintiff became aware that Mr. Eyre may have plans to take the
8 Windstream opportunity from her and give it to Mr. Carrick. In emails and phone calls on
9 Friday, November 10, 2017, and again on Monday, November 13, 2017, Plaintiff petitioned
10 Mr. Eyre to let her keep the account in light of her work to establish it. On or about November
11 27, 2017, Mr. Link contacted Plaintiff and informed her that Mr. Carrick had been assigned
12 to take over the account work with Windstream. He prefaced the news with, "So what are we,
13 a one-night stand?" Plaintiff found the comment to be offensive because she and he had a
14 strictly professional relationship. The transfer of accounts resulted in Mr. Carrick receiving
15 credit and commission for a \$6-million deal with Windstream, and subsequently Mr. Eyre
16 would transfer all of Plaintiff's major accounts to Mr. Carrick.

17 8. On January 31, 2018, at Calix's annual sales kickoff event at the Westin Hotel in San
18 Francisco, the company's Senior Vice President for Marketing, Matt Collins, gave remarks at
19 a session in which he criticized the marketing approach of Executive Vice President for Sales
20 Michael Weening and called him a "pussy." The comment deeply offended Plaintiff. Mr.
21 Collins then, in reference to Chinese software-development business partners who were
22 participating via livestream video, remarked about "R&D coming from shithole countries."
23 Plaintiff, again, was deeply offended. The Chinese company cancelled their two contracts
24 with Calix within 48 hours, effectively cancelling half of Plaintiff's applications portfolio.

25 9. In July 2017, Plaintiff formulated an innovative way to integrate clients' current
26 mapping software with Calix product. Plaintiff presented the concept to several companies,
27 but was rebuffed by Eyre, who the following month admitted that it was a "good idea" after
28 witnessing Plaintiff present a demonstration to an enthusiastic customer. On November 7,
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1 2017, Michael Weening lauded the idea and Plaintiff at a CenturyLink Executive Briefing
2 Session, saying in a recorded and live-streamed presentation about the concept: "Tracy, hate
3 to steal your thunder..." Theft literally took place in December 2017, when Calix hired Jeff
4 Lundgren, a white male, as a cloud specialist and Plaintiff was ordered to transfer the concept
5 to him, along with the Frontier Communications account that Plaintiff had presented the idea
6 to in October 2017 alongside Calix account representative Kelly Mikah. Plaintiff was then
7 forced to teach Mr. Lundgren the concept she had created and to do customer presentations
8 as he observed her and studied her presentations about the product that had been posted
9 on the Calix website.

10 10. Plaintiff suffered a stroke because of the duress. She was placed on medical leave
11 and began working from home on April 9, 2018. Plaintiff wrote to Human Resources in
12 October 2018 that she wanted to return to work. She requested an accommodation to work
13 part-time (20 hours per week), but she was told in writing that the position was not designed
14 for part-time hours. However, at approximately the same time, a similarly situated white male
15 was given a lighter workload and fewer work days to accommodate his cancer.

16 11. Plaintiff continues to remain on medical leave indefinitely, recovering at home,
17 disabled in the prime of her professional life.

18 **INTRADISTRICT ASSIGNMENT**

19 12. Substantial parts of the events alleged by Plaintiff occurred at the company
20 headquarters, including illegal decisions made by company executives. The headquarters
21 are in San Jose, California, 95134, and accordingly, this case should be assigned to the San
22 Jose Division, pursuant to rule 3-2(c) of the Local Rules of the Northern District of California.

23 **PARTIES**

24 13. Plaintiff Tracy Hankins is a 49-year-old, African-American woman, and she has been
25 employed at Calix Inc., as a cloud solutions specialist, since March 2017.

26 14. Defendant Calix Inc. is a global provider of cloud and software platforms, systems,
27 and services. Calix is a publicly traded company with headquarters in San Jose, California,
28 and offices in Petaluma, California; Richardson, Texas; and Nanjing, China.

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JURISDICTION AND VENUE

15. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1331 because this action is based on federal antidiscrimination statutes.

16. Venue is proper in this district pursuant to 28 U.S.C. § 1391(d), because Defendant is headquartered in San Jose, California.

BACKGROUND

17. Plaintiff filed her EEOC complaint with the California Department of Fair Employment and Housing and the EEOC on October 4, 2018.

FACTUAL ALLEGATIONS

A. Pay Discrepancies Between Plaintiff and Other Similarly Situated Male Employees

18. Plaintiff first learned of a pay discrepancy between male and female employees from Eric Mal in December 2017. He inadvertently informed her that he was offered a salary greater than the Plaintiff's, for the exact same position and role in the company. Mr. Mal also informed Plaintiff that he had been offered a guaranteed bonus to join the company. He further informed Plaintiff that their team colleague Bob Carrick, who signed with the company at the same time as Mr. Mal, was offered and was being paid the same salary and perks. Mr. Mal was unfortunately subsequently terminated on February 9, 2018 for disclosing this information to members of the Calix infrastructure sales team. He was deemed "not a good cultural fit for Calix." Plaintiff again met with Mr. Mal on March 9, 2018, and Mr. Mal confirmed the pay discrepancy facts to her.

19. Bob Carrick was promoted to Senior Cloud Solutions Specialist within one month of his employment start date, despite the fact that he had no tenure, merit, or product experience. Plaintiff, on the other hand, was denied promotion to Senior Cloud Solutions Specialist, despite her extensive years of experience. She was instructed by her superiors to hand over her largest and most lucrative accounts to Mr. Carrick. When Plaintiff asked her supervisor, S. Eyre, the reason why she was denied a promotion, the only response she got was: "I very well can't do that."

1 20. On or about November 6, 2017, Plaintiff was instructed to begin giving Mr. Mal all of
2 her Calix Support Cloud deals. She had previously petitioned on October 15, 2017 to keep
3 these deals, but was rejected. Plaintiff's performance accounted for 54% of the team's overall
4 performance achievements, according to annual productivity reports. However, despite this
5 outstanding performance by Plaintiff, Plaintiff received multiple negative commission
6 statements while her male counterparts received positive commission statements, and their
7 salaries remain disparately unequal. Plaintiff challenged the commission's computation about
8 her alleged negative performance *three* times with Mr. Eyre and Mr. Greg Dalforno, the Vice
9 President who is responsible for all of commissions' handlings, until it was corrected to reflect
10 the truth. Male comparators of the same title and rank as Plaintiff were being paid \$100,000
11 more than Plaintiff. Plaintiff's salary is \$120,000 per year, and the male comparators with less
12 seniority at Calix and with same title and rank as Plaintiff are being paid \$220,000 per year
13 (as of March 20, 2017 until present date).

14 21. On January 23, 2018, at the Italian Room Foyer of the Westin San Francisco hotel
15 Grand Ballroom, awaiting entrance to the evening session of the Calix Sales Kickoff 2018
16 activities, Plaintiff approached Ms. Rebekah Cremer, the Director of Talent and Culture
17 (Human Resources) at Calix, to discuss her concerns. She asked Ms. Cremer if Ms. Cremer
18 could check on the pay discrepancy of Plaintiff compared with male employees, because that
19 is part of Ms. Cremer's job. However, Plaintiff's concerns were never addressed.

20 **B. Plaintiff is Told That She is "Overly Aggressive"**

21 22. On or about July 11, 2017, during Plaintiff's individual sales member meeting, an issue
22 was brought up to Plaintiff that she was being "overly aggressive" at work. This complaint
23 was presented by Mark Johnson, Regional Vice President of the Mid-Atlantic operations at
24 Calix, on behalf of Dennis Hensley (Infrastructure Sales team member). This complaint was
25 made to Plaintiff after her completion of a \$452,000 sale of Calix Marketing Cloud to Horry
26 Telephone, which is one of Mr. Hensley's main accounts.

27 23. On or about October 9, 2017, during her scheduled individual sales member meeting,
28 Mr. Eyre yet again told Plaintiff to not be "overly aggressive" at work, and that he had received
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1 “another” complaint of her allegedly being that way. He suggested that they figure out a way
2 to get the situation under control. Plaintiff was confused and offered to send to him recorded
3 Zoom meeting sessions in which she was a participant, and also presentations that she had
4 completed for examination and review, in order to aid him in pointing out these so-called
5 aggressive behaviors. But Mr. Eyre took no further action at that time, nor did he respond to
6 Plaintiff’s email with her presentation examples attached.

7 24. On January 25, 2018, during an individual sales member meeting at the restaurant in
8 the lobby of the Westin San Francisco Hotel, Mr. Eyre again referred to complaints he claimed
9 to receive about Plaintiff being “overly aggressive.” He told her that in the South [of the U.S.],
10 there is an overtone of racism, and that Plaintiff, a black woman, would probably fare better
11 if she sold products in the North [of the U.S.] He also said, “If you were a middle-age white
12 male, you would be patted on the back for the same thing [being seen as aggressive], but
13 because you are a black woman they deem it overly aggressive. People have asked why I
14 am wearing these bracelets and I told them because I want to. It’s our job to get people like
15 Mark and Dennis to like us and want to work with us.” Plaintiff responded with, “But they
16 can’t say that, even if it were true. That is not right.” Mr. Eyre responded, “I know.”

17 25. On February 13, 2018, during Plaintiff’s individual sales member meeting via Zoom
18 video session, she again addressed the “overly aggressive” complaints that she had
19 received. Mark Johnson used the literal phrase, “We don’t want to be overly aggressive” in
20 referring to attempts to close out the remaining business of 2017, confirming to Plaintiff that
21 he was one of the original conspirators to the campaign to malign Plaintiff. Plaintiff also
22 learned at this meeting from another member of the infrastructure team that Mr. Johnson and
23 Mr. Hensley had previously used “overly aggressive” allegations in a campaign with senior
24 management to have a black engineer reassigned away from their support team in 2015.

25 26. On April 4, 2018, Plaintiff was copied on an email sent by Bob Carrick to Michael
26 Weening (EVP, Sales) and Mr. Eyre. In the email, he accused a female salesperson of telling
27 one of the Calix clients that “selling our cloud product at this price is a joke.” As Plaintiff was
28 the sole female member of the Cloud Solutions Sales team, it was clear that Mr. Carrick was

1 referring to Plaintiff. Despite having sought guidance from Mr. Eyre, Diane Prins Shedahl (VP
 2 of Talent & Culture), and Rebekah Cremer (Director, Talent & Culture) on multiple occasions,
 3 Plaintiff reached no resolve in the “aggressiveness” campaign against her and finally reached
 4 out to the Employee Assistance Program for counsel and assistance on how to navigate the
 5 issue. This caused Plaintiff a lot of stress, and Plaintiff subsequently suffered a stroke days
 6 later. Plaintiff officially has been away from her position since April 11, 2018.

7 **C. Plaintiff Was Retaliated Against for Speaking Out About Discrimination**
 8 **Against Her**

9 27. On October 30, 2017, Bob Carrick told Derek Kiger and Eric Mal, “I need a quick sale,
 10 even if I have to steal it.” Mr. Mal relayed the statement to Plaintiff and suggested that she
 11 beware Mr. Carrick. On November 3, 2017, Mr. Mal told Plaintiff that Mr. Carrick told him
 12 and Mr. Kiger, “No, I am not going to scoop you guys, I’m going to scoop *her*.” He was
 13 referring to Plaintiff, his only female teammate. Mr. Mal subsequently told Plaintiff, “You
 14 better watch out for the guy. He has it out for you.” In a later conversation with Derek Kiger,
 15 Mr. Mal referred to Mr. Carrick as a “bad dude” for making that comment. Mr. Mal gave
 16 account to Plaintiff later that day, and stated Mr. Kiger had told him to “just stay out of it, she
 17 knows what’s going on.” Plaintiff then reached out to Mr. Eyre by phone to discuss the
 18 “scooping” activity of Mr. Carrick, only to be dismissed and told, “Go focus on your sales.”
 19 Plaintiff sent a meeting request via email to Diane Prins Shedahl, VP of Talent & Culture,
 20 hoping to seek assistance on how to navigate appropriately the scooping claims and
 21 allegations of Plaintiff being “overly aggressive.” Plaintiff never received a response from
 22 Ms. Prins Shedahl.

23 28. On November 7, 2017, Plaintiff made a phone call to Ms. Prins Shedahl to seek advice
 24 from the female executive about her experiences of feeling discriminated against based on
 25 her sex and her race. Again, Ms. Prins Shedahl did not answer, so Plaintiff called Ms.
 26 Rebekah Cremer and asked her if Plaintiff could seek counsel on navigating around the “good
 27 old boys club” at Calix. Ms. Cremer agreed to listen and stated that if it were “too bad” she
 28 would make a formal note of it, which Plaintiff asked her to not do just yet. Plaintiff suggested

1 taking her thoughts and suggestions directly to Mr. Eyre during their scheduled individual
2 meeting on November 9, 2017, and Plaintiff and Ms. Cremer agreed that Plaintiff would do
3 so and report back to Ms. Cremer about the meeting.

4 29. On November 9, 2017, Plaintiff had the one-on-one meeting with Mr. Eyre on Zoom
5 video session. Plaintiff aired her concerns regarding the redistribution of her covered
6 accounts to male employees and how she felt cheated out of a promotion that she deserved
7 more than her male colleague Bob Carrick, who got the promotion instead. Mr. Eyre brushed
8 aside her grievance and instructed her: "Go focus on making sales. Pay attention to that and
9 maybe I will reconsider." Plaintiff informed Ms. Cremer of the meeting and what was said by
10 both parties. Ms. Cremer stated that she would have a talk with Mr. Eyre during a Zoom
11 meeting they had scheduled for later that day. She mentioned she would have to officially
12 document the matter at this point.

13 30. On November 10, 2017, during a scheduled full team sales meeting, Mr. Eyre
14 announced that more of the coverage territory and core accounts would be covered by Bob
15 Carrick. Plaintiff could only assume this was the result of Ms. Cremer's conversations with
16 Mr. Eyre from the previous day, because Plaintiff's male team members' coverage territory
17 remained the same – with the exception of Mr. Carrick, whose territory increased by adding
18 territory taken from Plaintiff's accounts.

19 **FIRST CLAIM**

20 **VIOLATION OF THE CALIFORNIA EQUAL PAY ACT AND TITLE VII**

21 Plaintiff incorporates the allegations of the preceding paragraphs by reference.

22 31. Defendant violated Equal Pay Act (EPA), 29 U.S.C. § 206(d) and Title VII of the Civil
23 Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended, because Defendant pays
24 Plaintiff much less than her similarly situated male co-workers. Plaintiff alleged same in her
25 EEOC complaint.

26 32. On October 6, 2015, California Governor Jerry Brown signed into law the California
27 Fair Pay Act (Senate Bill 358) after unanimous passage with a 39-0 vote by the California
28 Senate on August 31. This law, codified at Labor Code Section 1197.5, requires that men
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1 and women receive equal pay for “substantially similar work” (not the “same work” as
2 previously required), regardless of whether they work at the same physical location; modifies
3 the business justification defense that may be asserted by employers to except an otherwise-
4 prohibited pay discrepancy from the equal pay requirement based on a recognized
5 justification (e.g., a seniority, merit, or quality/quantity-based pay system) by requiring the
6 employer to establish that the business justification (i) accounted for the entire wage
7 discrepancy and (ii) was reasonably relied upon by the employer; prohibits employers from
8 precluding employees from discussing their wages, discussing the wages of others, inquiring
9 about others’ wages, or aiding or encouraging any other employee to exercise his or her
10 rights under the Act; and increases employers’ record-keeping obligations from two to three
11 years.

12 33. Employees may file civil actions to recover wages, or file complaints with California’s
13 Division of Labor Standards Enforcement for unlawful wage discrepancies. The statute of
14 limitations is two years “after the cause of action occurs” or three years for willful violations.
15 The Act also prohibits retaliatory actions against employees who “invoke or assist” in the
16 enforcement of the equal pay requirements and allows civil claims for reinstatement, lost
17 wages and benefits, interest, and “appropriate equitable relief” against employers who do
18 take retaliatory actions.

19 34. At Calix as to Plaintiff, the similarly situated male co-workers performed work under
20 similar working conditions that required the same skills, efforts, and responsibilities. They all
21 hold the same job title and rank, and performed the same sales duties, but the pay
22 discrepancy is approximately \$100,000 a year. Also, Plaintiff was more senior than at least
23 one male co-worker who received higher salary and bonuses than she, and her performance
24 had been nothing short of stellar. Plaintiff and her male co-workers performed the same jobs
25 (selling to and interacting with clients) under similar working conditions at the same company,
26 and were supervised by the same supervisors. 29 U.S.C. § 206(d)(1).

27
28

1 35. Plaintiff was the first hired in her role in her department at Calix on March 20, 2017.
2 Five men were subsequently hired in the same role, comparator co-employees paid
3 considerably more and/or treated considerably more favorably than Plaintiff:

4 36. Derek Kiger, a white male who was promoted internally to the position April 5, 2017
5 and subsequently left the company in October 2019;

6 37. Erik Mal, a dark-skinned man born in southern India and residing in Canada who
7 began October 16, 2017;

8 38. Bob Carrick, a white male who also started October 16, 2017;

9 39. Jeff Lundgren, a white male who started on or about December 1, 2017; and

10 40. Noki Cheonim, a Japanese-American man who started on or about December 1,
11 2017.

12 41. Calix Inc. is vicariously liable for any violations of the Equal Pay Act and Title VII.

13 **SECOND CLAIM**

14 **GENDER/SEX DISCRIMINATION IN VIOLATION OF TITLE VII**

15 Plaintiff incorporates the allegations of the preceding paragraphs by reference.

16 42. Defendant discriminated against Plaintiff based on her sex by stereotyping her actions
17 and behavior to the conformity of how a woman supposedly ought to act. Title VII of the Civil
18 Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended.

19 43. Plaintiff was paid less than less-competent and less-qualified men and was not
20 promoted because she was “too aggressive,” which was considered inappropriate because
21 she is a woman. Therefore, by failing to promote Plaintiff for this reason, Defendant engaged
22 in gender stereotyping and unlawful sex discrimination under Title VII. *Price Waterhouse v.*
23 *Hopkins*, 490 U.S. 228 (1989).

24 44. A sexually charged, hostile work environment persisted. Calix employee Richard Link
25 worked for Calix as an account manager during the course of the events outlined above.
26 Plaintiff had been talking with him long-distance about trying together to get Windstream as
27 a customer. She spoke with Link in person at the October 31, 2017 conference in Las Vegas.

1 There, Link introduced her to the head engineer of Windstream, which is the conversation on
2 which Carrick was eavesdropping.

3 45. On November 1, 2017, Plaintiff attended a dinner meeting at which Tim Pillow, Vice
4 President who services the Century Link account, queried whether Plaintiff planned to wear
5 "a nice dress and heels" to meet the Century Link business contacts in person.

6 46. A few weeks later, Link contacted Plaintiff to tell her that Carrick was being given the
7 account. He prefaced the news with, "So what are we, a one-night stand?" Plaintiff found the
8 comment to be offensive because she and he had a strictly professional relationship.

9 47. Calix Inc. is liable for gender/sex discrimination in violation of Title VII.

10 **THIRD CLAIM**

11 **RETALIATION IN VIOLATION OF TITLE VII**

12 Plaintiff incorporates the allegations of the preceding paragraphs by reference.

13 48. Defendant unlawfully retaliated against Plaintiff in violation of Title VII of the Civil
14 Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended.

15 49. Plaintiff engaged in the protected activity of complaining to Calix's HR director on
16 November 7, 2017, about the discriminatory treatment she suffered at the workplace based
17 on her race and sex. On November 10, 2017, one of Plaintiff's supervisors took away
18 Plaintiff's accounts and gave them to a less-senior male co-worker, who is the same co-
19 worker that gets paid a higher salary than Plaintiff, and this constitutes a materially adverse
20 employment action against Plaintiff. Plaintiff lost out on bonuses and additional pay as a
21 result. Due to the temporal proximity (a mere few days) of the complaint and the adverse
22 employment action, the adverse action was causally connected to the protected activity. The
23 complaint lodged by Plaintiff was a but-for cause of the adverse action because up until that
24 point, there was no other reason – especially based on her stellar performance – for Plaintiff's
25 accounts to suddenly be assigned to another employee.

26 50. Calix Inc. is vicariously liable for any of its employees' retaliatory actions because Mr.
27 Eyre is in a managerial or supervisory capacity of Plaintiff, and thus has authority over
28 Plaintiff. *Vance v. Ball State University*, 570 U.S. 421, 424 (2013).

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1 51. It is unquestionable that the employer, Calix Inc., empowered the decision upon Mr.
2 Eyre. At the very least, Calix should have known or did know about retaliatory action against
3 Plaintiff, as she officially filed it with the Human Resources Director, and Calix failed to take
4 any remedial action to correct Plaintiff's discrimination concerns.

5 **FOURTH CLAIM**

6 **RETALIATION IN VIOLATION OF TITLE VII AND §1981**

7 Plaintiff incorporates the allegations of the preceding paragraphs by reference.

8 52. Defendant unlawfully retaliated against Plaintiff in violation of §1981 of the Civil Rights
9 Act of 1866, at Title VII at 42 U.S.C.

10 53. Plaintiff engaged in the protected activity of complaining to Calix's HR director about
11 the discriminatory treatments she received at the workplace based on her race, comments
12 made by her supervisor about her being a "black woman," and so forth. On November 10,
13 2017, one of Plaintiff's supervisors, Mr. Eyre, took away Plaintiff's accounts and gave them
14 to a less-senior male co-worker, which is the same co-worker who gets paid a higher salary
15 than Plaintiff, and this constitutes a materially adverse employment action against Plaintiff.
16 Due to the temporal proximity (a mere few days) of the complaint and the adverse
17 employment action, the adverse action was causally connected to the protected activity.

18 54. Calix Inc. is vicariously liable for any of its employees' retaliatory actions because Mr.
19 Eyre is in a managerial or supervisory capacity of Plaintiff, and thus has authority over
20 Plaintiff. *Vance v. Ball State University*, 570 U.S. 421, 424 (2013). It is unquestionable that
21 the employer, Calix Inc., empowered the decision upon Mr. Eyre. At the very least, Calix
22 should have known or did know about retaliatory actions against Plaintiff, as she officially
23 filed it with the Human Resources Director, and Calix failed to take any remedial action to
24 correct Plaintiff's discrimination concerns.

25 **FIFTH CLAIM**

26 **RACE DISCRIMINATION IN VIOLATION OF TITLE VII AND §1981**

27 Plaintiff incorporates the allegations of the preceding paragraphs by reference.

1 55. Defendant Calix Inc., violated the Title VII of the Civil Rights Act of 1964, 42 U.S.C. §
2 2000e, et seq., as amended, and §1981 of the Civil Rights Act of 1866, 42 U.S.C. by
3 discrimination Plaintiff on the basis of her race.

4 56. Plaintiff is a member of a protected class (African-American), she was qualified for and
5 applied for an available position of Senior Cloud Solutions Specialist. However, despite being
6 qualified, Plaintiff was rejected for the position, and Bob Carrick, a white male employee who
7 had joined the company three weeks prior to his promotion, got the promotion instead.
8 Further, Plaintiff was paid less than similar situated non-black coworkers.

9 57. Calix Inc., is vicariously liable for race discrimination in violation of Title VII and §1981.

10 **SIXTH CLAIM**

11 **DISABILITY DISCRIMINATION**

12 Plaintiff incorporates the allegations of the preceding paragraphs by reference.

13 58. Defendant discriminated against Plaintiff's disability status in violation of Americans
14 with Disabilities Act (ADA), 42 U.S.C. § 12112(a).

15 59. Plaintiff suffered a stroke in 2017 as a result of the stress she endured from the
16 workplace discrimination. This caused a major physical impairment that substantially limited
17 one or more of her major life activities, and since then, she has been stationed at home.
18 Plaintiff's stroke was officially noted by Calix Inc. Therefore, Plaintiff is also regarded as
19 having such impairment, as her long-time absence would indicate to her co-workers and
20 superiors.

21 60. Despite requesting reasonable accommodations to return to work, Plaintiff was not
22 afforded the opportunity to do so, so she has been on leave since the stroke left her impaired.

23 61. Defendant's act in not accommodating Plaintiff's disability is a violation of the ADA.

24 62. Calix Inc., is vicariously liable for disability discrimination in violation of the ADA.

25 **SEVENTH CLAIM**

26 **FAILURE TO ACCOMMODATE**

27 Plaintiff incorporates the allegations of the preceding paragraphs by reference.

1 63. Defendant failed to accommodate Plaintiff in violation of Americans with Disabilities
2 Act (ADA), 42 U.S.C. § 12112(a).

3 64. Plaintiff suffered a stroke in 2017 as a result of the stress she endured from the
4 workplace discrimination. This caused a major physical impairment that substantially limited
5 one or more of her major life activities. She was stationed at home thereafter through April 9,
6 2018, when she was placed on disability leave.

7 65. Plaintiff wrote to Human Resources in October 2018 that she wanted to return to work.
8 She requested a part-time (20 hour per week) accommodation, but she was told in writing
9 that the position was not designed for part-time hours. However, that is not the case. In fact,
10 at approximately the same time, a similarly situated white male was given a lighter workload
11 and fewer work days to accommodate his cancer.

12 66. Defendant unreasonably denied Plaintiff's requests for reasonable accommodations
13 to return to work.

14 67. Defendant's failure to accommodate Plaintiff is a violation of the ADA.

15 68. Calix Inc., is vicariously liable for disability discrimination in violation of the ADA.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff, Tracy Hankins, respectfully requests that this Court enter a
18 judgment in her favor, and grant the following relief:

19 1. Compensatory Damages not limited to, but including damages for future loss,
20 emotional distress, pain and suffering, inconvenience, and mental anguish;

21 2. Punitive Damages;

22 3. Back pay and Lost wages;

23 4. Liquidated damages;

24 5. Injunctive relief, that the Court order Defendant to reinstate Plaintiff at work with
25 reasonable accommodations;

26 6. Attorneys' Fees and Costs; and

27 7. Any other further relief that this Court deems just and proper.

28 ///

COMPLAINT FOR DAMAGES

1 **JURY DEMAND**

2 Plaintiff hereby demands a jury trial on all causes of action to which she has a right
3 to jury trial.

4 Date: November 15, 2019

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